Amber Court Management Corp & Ors (suing in their capacity of council members of Amber Court Management Corp Management Committee) v Hong Gan Gui & Anor

COURT OF APPEAL (PUTRAJAYA) — CIVIL APPEAL NOS W-02 [IM] [NCVC] 1840–10 OF 2014 AND W-02 [IM] [NCVC] 1810–10 OF 2014
VARGHESE GEORGE, IDRUS HARUN AND BADARIAH SAHAMID JJCA
27 NOVEMBER 2015

Civil Procedure — Action — Capacity to sue — Defamation — Management corporation and its council members commenced defamation suit — Allegation of defamatory statements on Facebook account — Whether management corporation had locused standi and could maintain action for defamation — Whether council members could bring action on behalf of management council — Strata Titles Act 1985

The appellants ('the plaintiffs') commenced a defamation suit against the respondents ('the defendants') based on the allegations that the latter posted defamatory statements about the former on his Facebook account. The judicial commissioner ('the JC') decided in favour of the defendants on the ground that the plaintiffs had no locus to institute the suit. The JC also dismissed the plaintiffs' application to amend their writ and statement of claim in respect of the intitulement to state that the action was being brought by the second to sixth plaintiffs in their personal capacity as well as their capacity as council members of the first plaintiff. Hence, the present appeals. The plaintiffs contended, inter alia, that the JC erred in interpreting ss 39 and 43 of the Strata Titles Act 1985 ('the Act') and failed to consider that the second to the sixth plaintiffs had the capacity to bring an action in defamation in their individual capacities. The issues that arose were whether the first plaintiff had the locus to institute an action in defamation under the Act; and whether the second to the sixth plaintiffs had the locus to institute an action in defamation under the Act or by recourse to common law.

Held, dismissing the appeals with costs:

(1) The plaintiffs were not empowered to transact business or to acquire and deal with property to acquire revenue or income. Its powers were primarily for the maintenance and enjoyment of common property by parcel proprietors. Thus, the plaintiffs had not met the criteria to enable them to maintain an action in defamation (see paras 52 & 53).

(2) The Act conceives the management corporation and the council as two separate entities. While the management corporation comprised all parcel proprietors, the members of the council comprised only those parcel proprietors who have been elected by the management corporation to perform the duties and conduct the business of the management corporation. It was not tenable that the general provisions of ss 39(3) and 43(2)(f) of the Act should extend such powers indeterminately to the extent that it would include the power to bring an action in defamation. In the absence of express provisions or by necessary implication from express provisions, the first plaintiff had no locus to bring an action in defamation against the defendants (see paras 24, 30 & 39).

(3) The Act does not empower the council members of the management corporation with the legal capacity to institute actions in their own individual names or as council members of the management corporation. Since the council only acts on behalf of the management corporation and its powers are restricted to any of the powers of the management corporation, the second to the sixth plaintiffs had no locus to sue in defamation. If the second and third plaintiffs were complaining that they had been defamed personally, then they ought to have rightfully brought separate proceedings in their individual capacities and not have it rolled up as being defamatory of the management corporation and all of the plaintiffs (see paras 40 & 43).

[Bahasa Malaysia summary

Perayu-perayu ('plaintif-plaintif') memulakan tindakan fitnah terhadap responden-responden ('defendan-defendan') berdasarkan dakwaan-dakwaan bahawa defendan-defendan paparkan penyataan fitnah mengenai plaintif-plaintif di akaun Facebooknya. Persuruhjaya kehakiman ('PK') memutuskan memihak defendan-defendan atas alasan bahawa plaintif-plaintif tidak mempunyai locus untuk memulakan tindakan. PK juga menolak permohonan plaintif untuk meminda writ dan penyataan tuntutan berkaitan intitulemen untuk menyatakan bahawa tindakan dibangkitkan oleh plaintif kedua hingga keenam dalam kapasiti peribadi mereka dan juga kapasiti mereka sebagai ahli-ahli majlis plaintif pertama. Maka, rayuan-rayuan ini. Plaintif-plaintif berhujah, antara lain, bahawa PK tersilap dalam mentafsirkan ss 39 dan 43 Akta Hakmilik Strata 1985 ('Akta') dan gagal untuk mempertimbangkan bahawa plaintif kedua hingga keenam mempunyai kapasiti untuk membangkitkan tindakan fitnah dalam kapasiti peribadi mereka. Isu-isu yang berbangkit adalah sama ada plaintif pertama mempunyai locus untuk memulakan tindakan fitnah di bawah Akta; sama ada plaintif kedua hingga keenam mempunyai locus untuk memulakan tindakan fitnah di bawah Akta atau dengan memilih kepada common law.

Diputuskan, menolak rayuan dengan kos:

(1) Plaintif-plaintif tidak diberikan kuasa untuk menjalankan perniagaan atau untuk mengambil alih dan berurusan dengan hartanah untuk mendapatkan hasil atau pendapatan. Kuasanya adalah terutamanya untuk penyelenggaraan dan penikmatan hartanah bersama oleh pemilik petak tanah. Oleh itu, plaintif-plaintif tidak memenuhi kriteria untuk membolehkan mereka mengekalkan tindakan fitnah (lihat perenggan 52 & 53).

(2) Akta membayangkan perbadanan pengurusan dan majlis sebagai dua entiti berasingan. Sementara perbadanan pengurusan terdiri daripada kesemua pemilik petak tanah, ahli-ahli majlis terdiri daripada hanya pemilik petak tanah yang telah dipilih oleh perbadanan pengurusan untuk menjalankan tugas dan menjalankan urusan perniagaan perbadanan pengurusan. Ia tidak dapat dipertahankan bahawa peruntukan am ss 39(3) dan 43(2)(f) Akta patut melanjutkan kuasa sedemikian dengan tidak jelas ke tahap di mana ia akan memasukkan kuasa untuk membangkitkan tindakan fitnah. Dalam ketiadaan peruntukan nyata atau dengan perlu implikasi daripada peruntukan nyata, plaintif pertama tidak mempunyai locus untuk membangkitkan tindakan fitnah terhadap defendan-defendan (lihat perenggan 24, 30 & 39).

(3) Akta tidak memberikan kuasa kepada ahli-ahli majlis perbadanan pengurusan dengan kapasiti undang-undang untuk memulakan tindakan atas nama mereka sendiri atau sebagai ahli-ahli majlis perbadanan pengurusan. Memandangkan majlis hanya bertindak bagi pihak perbadanan pengurusan dan kuasanya adalah terhad kepada apa-apa kuasa perbadanan pengurusan, plaintif kedua hingga keenam tidak mempunyai locus untuk menyaman dalam fitnah. Jika plaintif kedua dan ketiga mengadu bahawa mereka telah difitnah secara persendirian, dengan itu mereka patut secara betul membangkitkan prosiding berasingan dalam kapasiti mereka sendiri dan bukan menggulungnya sebagai adalah fitnah perbadanan pengurusan dan kesemua plaintif-plaintif (lihat perenggan 40 & 43).]

Notes

For cases on capacity to sue, see 2(1) *Mallal's Digest* (5th Ed, 2015) paras 55–61.

Cases referred to

Badan Pengurusan Tiara Duta v Timeout Resources Sdn Bhd [2015] 1 MLJ 110, CA (refd)

Chinese Empire Reform Association v Chinese Daily Newspaper Publishing Co Ltd [1907] 13 BCR 141 (distd)

Jameel (Mohammed) and another v Wall Street Journal Europe Sprl [2007] 1 AC 359, HL (refd)
Knupffer v London Express Newspaper [1944] AC 116, HL (refd)
Lewis v Daily Telegraph [1964] AC 234, HL (refd)
RSP Architects Planners & Engineers v Ocean Front Pte Ltd and another appeal [1996] 1 SLR 113, CA (folld)
South Hetton Coal Co v North Eastern News Association Ltd [1894] 1 QB 133, CA (refd)
Tenaga Nasional Bhd v Tekali Prospecting Sdn Bhd [2002] 2 MLJ 707, CA (refd)

Legislation referred to

Benevolent Societies Act
Building and Common Property (Maintenance and Management) Act 2007
Land Titles (Strata) Act 1988 [SG]
Rules of Court 2012 O 18 r 19(1)(a), (b), (c), (d)
Strata Titles Act 1985 ss 8(2)(d), 32(2)(b), (2)(c), 33(2), 39, 39(1), (3), (4), 43, 43(1), (1)(a), (2), (2)(f), 47, 53, 76, 77, 116

Appeal from: Suit No 23NCVC-20–04 of 2014 (High Court, Kuala Lumpur)

Avinder Singh Gill a/l Ranjit Singh (AS Gill & Salina) for the appellant.
David a/l Samuel (Leonard Parthiban a/l Lourdesamy with him) (Chambers of Firdaus) for the respondent.

Badariah Sahamid JCA:

BRIEF BACKGROUND

[1] There are two appeals before us. Appeal 1840–10 of 2014 is the plaintiff's appeal against the decision of the learned judicial commissioner ('JC') allowing the defendant's application in encl 9 to strike out the plaintiff's writ and statement of claim dated 29 April 2014, pursuant to O 18 r 19(1)(a) or (b) or (c) or (d) of the Rules of Court 2012. Appeal 1810–10 of 2014 is the plaintiff's appeal against the decision of the same learned JC dismissing the plaintiff's application in encl 14 to amend their writ and statement of claim. The amendment was in respect of the intitulement to state that the action was being brought by the second to the sixth plaintiffs in their personal capacity as well as their capacity as council members of Amber Court Management Corp 2013–2014.

[2] The plaintiffs had filed an action in defamation against the defendants in respect of alleged defamatory statements about the plaintiffs posted in a Facebook account belonging to the defendants.

[3] The first plaintiff is the management corporation of Amber Court Condominium. The second to the sixth plaintiffs were council members of the first plaintiff at the time of the publication of the alleged defamatory statements.

[4] The primary issue before the High Court was whether the plaintiffs have locus to commence an action in defamation.

[5] The learned JC determined that the plaintiffs had no locus to institute the suit on the grounds succinctly summarised as follows:

> A management corporation as a creature of statute, cannot of its own volition extend its jurisdiction to matters falling outside its own competence. Its powers and duties are defined and limited by the Act. A claim in defamation cannot be brought by the management corporation as it is neither a trading nor a non-trading corporation.

THE APPELLANTS' GROUNDS OF APPEAL

[6] In the appellants' memorandum of appeal, the following main grounds were raised:

[7] The learned JC had erred in law in her interpretation of the Strata Titles Act 1985 (Act 318) ('the Act') in respect of the powers and competence of the first plaintiff ('management corporation') to institute actions in defamation in particular, ss 39, 43 and 47 of the Act.

[8] The learned JC had misdirected herself in her reference to the case of *Chinese Empire Reform Association v Chinese Daily Newspaper Publishing Co Ltd* [1907] 13 BCR 141, in relation to the distinction between trading and non-trading corporations.

[9] The learned JC failed to appreciate that the Act does not require the management corporation to obtain a resolution before instituting or defending suits.

[10] The learned JC had failed to consider that the second to the sixth plaintiffs who were council members of the management corporation had the capacity to bring an action in defamation in their individual capacities.

THE APPELLANTS' SUBMISSIONS

[11] The crux of the appellant's submissions before us is that the Act should be read in a liberal rather than a restrictive way to give the plaintiffs locus to sue and be sued on all matters, including defamation.

[12] In support of the above contention, the appellant refers to s 39(3) of the Act which states a general provision that, 'The management corporation may sue and be sued'.

[13] In addition the appellant sought to place emphasis on the word *include* found in s 43(1)(a) of the Act to submit that the duties stated in that provision were not meant to be exhaustive but could be extended to other incidental powers and duties as well.

[14] In support of the above contention, reference was made to the case of *Tenaga Nasional Bhd v Tekali Prospecting Sdn Bhd* [2002] 2 MLJ 707 at p 714 where Gopal Sri Ram JCA (as he then was) observed that:

> On settled principles of statutory interpretation, it is clear that when an Act of Parliament employs the expression, 'includes' to define some other word or expression, the intention is to leave the meaning of the expression defined open ended. By contrast, when the word 'means' is employed to define something, there is a rebuttable presumption of statutory interpretation that Parliament intends to restrict the meaning of the expression defined.

[15] Reference was also made to the Building and Common Property (Maintenance and Management) Act 2007 (Act 663) which provides under the heading, 'Duties and powers of Joint Management Body', the following:

> Section 8(2): The powers of the Body shall include the following:
>
> (g) to do all things reasonably necessary for the performance of its duties under this Act.

[16] The appellant cites as authority for a liberal as opposed to a restrictive interpretation of the competence of the management corporation, the case of *Badan Pengurusan Tiara Duta v Timeout Resources Sdn Bhd* [2015] 1 MLJ 110. In that case the main issue that arose for determination was whether a condominium complex's joint management body ('JMB'), established under the Building and Common Property (Maintenance and Management) Act 2007 (Act 663) had power under the Act to lease out the common property to a third party.

[17] The Court of Appeal held as follows:

> The absence of a specific provision spelling out expressly the power to sell, lease or rent out common property in s 8(2) of the Act did not necessarily mean a JMB did not have the power to do so. The power need not be express and it could be implied that the leasing out of common property by a JMB can come within the ambit of s 8(2)g of the Act ... As there was a general provision in s 8(2)g ('to do all things reasonably necessary for the performance of its duties under the Act') the court saw no reason or basis to declare the agreement to lease in the present case to be null and void for being ultra vires the Act.

Thus, the appellant contends that the plaintiff has the locus to commence an action in defamation against the defendants.

[18] It was further contended that the second to the sixth plaintiffs as council members of the management corporation have locus to institute this action against the defendants. In support reference was made to the case of *Knupffer v London Express Newspaper* [1944] AC 116 as authority for the proposition that if defamatory statements are made of a class or group, every member of it has a cause of action.

ISSUES

[19] The issues before us may be summarised as follows:

(a) whether the first appellant/plaintiff, Amber Court Management Corp ('the management corporation') has locus to institute an action in defamation under the Strata Title Act 1985 (Act 318)?

(b) whether the second to the sixth appellants/plaintiffs who were at the material time council members of the management corporation have the locus to institute an action in defamation under Act 318 or by recourse to common law?

DECISION

[20] After careful consideration of learned counsels' oral and written submissions, the record of appeal as well as relevant authorities, we find no merits in this appeal. We therefore dismiss both appeals with costs. The decision of the high court to strike out the plaintiffs' suit in appeal 1840–10 of 2014 is affirmed. We also affirm the decision of the learned JC to dismiss the plaintiffs' application for amendment of their writ and statement of claim in appeal 1810–10 of 2014. The grounds of our decision are set out below.

STRATA TITLES ACT 1985 (ACT 318)

Duties and powers of the management corporation

[21] In order to determine whether the first plaintiff, Amber Court

management corporation ('the management corporation') and the second to the sixth plaintiffs who are council members of the sixst plaintiff, have locus to institute an action in defamation, it is necessary, firstly to examine the nature of the management corporation and the council, and its powers and competence conferred by the Act.

[22] According to s 39(1), a management corporation consists of 'all the parcel proprietors including in the case of phased development, the proprietor of the provisional block or blocks'.

[23] By s 39(4):

> The management corporation shall elect a council which, subject to any restriction imposed or direction given by the management corporation at a general meeting, shall perform the management corporation's duties and conduct the management corporation's business on its behalf, and may for that purpose exercise any of the management corporation's powers.

[24] The Act therefore conceives of the management corporation and the council as two separate entities. While the management corporation is comprised of all parcel proprietors, the members of the council comprise only those parcel proprietors who have been elected by the management corporation to perform the duties and conduct the business of the management corporation.

[25] What are the powers and competence of the management corporation? By virtue of s 39(3), the management corporation may sue and be sued.

[26] Section 43(1) of the Act further lists the specific duties and powers of management corporations. These relate principally to the proper management and maintenance of the common property.

[27] Section 43(2) confers on the management corporation specific powers in respect of the common property. Paragraph (f) confers the power *'to do all things necessary for the performance of its duties under this Part … '*

[28] Further, there are express provisions in the Act which stipulate the nature of the legal proceedings which management corporations are empowered to institute. These are as follows:

(a) by virtue of s 53, in respect of legal proceedings to recover sums due from a proprietor;

(b) by virtue of s 76, as representatives of proprietors in respect of legal proceedings which relate to common property;

(c) by virtue of s 77, proceedings taken as agents for proprietors in cases of defects to parcels in the common property.

[29] It is quite clear from a careful reading of the Act that the intention of the legislature in creating the management corporation is for the purposes of the proper management and maintenance of the common property of parcel proprietors, which includes the power to institute legal proceedings in respect thereof, as expressly stated in ss 53, 76 and 77 of the Act.

[30] In the face of the clear, express provisions stipulating the powers and competence of the management corporation, it is not tenable that the general provisions of ss 39(3) and 43(2)(f) of the Act should extend such powers indeterminately to the extent that it would include the power to bring an action in defamation.

[31] We find support for the above proposition in the Singapore case of *RSP Architects Planners & Engineers v Ocean Front Pte Ltd and another appeal* [1996] 1 SLR 113. The primary issue before the Singapore Court of Appeal was whether it is competent for the management corporation of the Bayshore Park Condominium to sue in its own name for the alleged defects in the construction of the common property.

[32] The court analysed the relevant provisions of the Singapore Land Titles (Strata) Act 1988 which has provisions similar to the Malaysian Strata Titles Act 1985 (Act 318) in respect of the powers of the management corporation. The court took the approach that the powers and competence of the management corporation is to be construed by reference to the express and specific provisions of the Act, not by implication from general provisions.

[33] In the *RSP Architects Planners* case the court found that the management corporation could institute the action under ss 32(2)(b) or (c) or 116 of the Strata Act.

[34] Section 32(2) of the Strata Act provides as follows:

The management corporation may –

(a) sue and be sued on any contract made by it;

(b) sue and be sued in respect of any matter affecting common property;

(c) sue in respect of any loss or damage suffered by a management corporation arising out of a contract or otherwise; and

(d) be sued in respect of any matter connected with the parcel for which the subsidiary proprietors are jointly liable.

[35] LP Thean JA had observed, at p 120:

> The claim of the management corporation is against the developers for damages representing the costs and expenses incurred or which would be incurred in rectifying the defects to the common property occasioned by the alleged negligence of the developers. It is empowered by s 33(2) of the Strata Titles Act to bring and maintain this action and the claims falls within para (b) as well as para (c) of s 33(2). In our judgment , the management corporation is competent to bring the action under s 33(2) of the Strata Act.
>
> Alternatively, the management corporation is entitled to bring the action on behalf of the subsidiary proprietors under s 116 of the Strata Act.

[36] A similar interpretation was adopted by this court in the case of *Badan Pengurusan Tiara Duta v Timeout Resources Sdn Bhd* [2015] 1 MLJ 110. In that case the main issue that arose for determination was whether a condominium complex's joint management body ('JMB'), incorporated under the Building and Common Property (Maintenance and Management) Act 2007 (Act 663) had power under the Act to lease out the common property to a third party.

[37] In that case the Court of Appeal made a finding that such power to lease arises by necessary implication from the express provisions of s 8(2)(d) of the Act.

Mah Weng Kwai JCA had observed:

> If, as is provided in s 8(2)(d), a JMB can purchase, hire or acquire property, the court sees no reason why a JMB cannot do the converse provided of course, the sole objective is for the benefit of residents and members of JMB.

[38] Thus, in principle the construction of the legal capacity of a joint management body ('JMB') under the Building and Common Property (Maintenance and Management) Act 2007 (Act 663) in the case of *Badan Pengurusan Tiara Duta* was no different from the approach of the Singapore court in the case of *RSP Architects Planners* case. The powers and competence of an entity like the management corporation has to be determined by reference to express provisions of the enabling statute.

[39] Thus in the absence of express provisions or by necessary implication from express provisions, the first plaintiff/management corporation has no locus to bring an action in defamation against the defendants.

[40] In respect of appeal 1810–10 of 2014, the second to sixth plaintiffs' proposed amendment to the intitulement to the action was to state that they are 'suing in their personal capacity and as council members of Amber Court Management Corporation'. In respect of the locus of the second to the sixth

plaintiffs, a careful consideration of the Act demonstrates that the Act does not empower the council members of the management corporation with the legal capacity to institute actions in their own individual names or as council members of the management corporation.

[41] Since the council only acts on behalf of the management corporation and its powers are restricted to any of the powers of the management corporation, the second to sixth plaintiffs have no locus to sue in defamation.

[42] In any event if one were to examine the statement of claim at para 29 (the so termed 'First Attack') and para 31 (the so termed 'Second Attack') that set out the purported defamatory material, it will be noticed that none of the second to sixth plaintiffs are specifically mentioned or identified by the defendants in the impugned Facebook or email material; all references were to the management corporation as a whole or its proceedings.

[43] At para 33 of the statement of claim (the so termed 'Third Attack') only the names of the second and third plaintiffs are found in the alleged Facebook material. At para 34 however it is averred that ' ... the plaintiffs contend and will contend that the statement was issued with the intent to defame the plaintiffs ... ' meaning all the plaintiffs collectively as 'Ahli Jawatan Kuasa Amber Court Management Corporation Management Committee'.

In our view if the second and third plaintiffs were complaining that they had been defamed personally, then they ought to have rightfully brought separate proceedings in their individual capacities (apart from others) and not have it rolled up as being defamatory of the management corporation and all of the plaintiffs.

COMMON LAW

[44] The next issue to consider is whether, in the absence of competency to institute an action in defamation under the Act, the plaintiffs can have any similar recourse under common law?

[45] The first plaintiff is not a natural person but a creature of statute. Thus, their powers and competencies must necessarily be conferred by the enabling statute. In any event, the appellants have not been able to furnish us with any authorities to support the contention that the plaintiffs have the locus to maintain an action in defamation at common law.

[46] Historically at common law, the tort of defamation had developed to protect the individual's dignity and social esteem. When the claimant is a legal (ie artificial) as opposed to a human entity, different principles apply.

[47] As Lord Reid observed in the case of *Lewis v Daily Telegraph* [1964] AC 234 at p 262:

> A company cannot be injured in its feelings; it can only be injured in its pocket. Its reputation can be injured by a libel but that injury must sound in money. The injury need not necessarily be confined to loss of income. Its goodwill may be injured.

TRADING AND NON-TRADING CORPORATIONS

[48] At common law, the position is that a trading corporation and non-trading corporation can sue for defamation on proof that the defamatory statements affect its business, revenue or income or good will.

[49] In the classic case of *South Hetton Coal Co v North Eastern News Association Ltd* [1894] 1 QB 133, the Court of Appeal held that a company was entitled to sue a newspaper which had alleged that properties in which the company had housed its employees were highly insanitary. It was held that the company could maintain the action in libel as there was injury to the company's trading reputation.

[50] Recently, the House of Lords approved the position in *South Hetton*'s case in the case of *Jameel (Mohammed) and another v Wall Street Journal Europe Sprl* [2007] 1 AC 359. In this case, a trading company, incorporated in Saudi Arabia, had brought an action for libel in response to a newspaper article which suggested that its bank accounts were being monitored for channelling funds to terrorist organisations. The company was found to have a trading reputation in UK and thus could maintain an action in libel.

[51] In the case of *Chinese Empire Reform Association v Chinese Daily Newspaper Publishing Co Ltd* [1907] 13 BCR 141, the court held that non-trading and trading corporations can maintain actions in defamation provided that there was injury to its property or business. In this case the plaintiff, a non-trading corporation was incorporated under the Benevolent Societies Act with express powers to transact business, acquire and purchase property as well as sell, exchange, mortgage let or otherwise dispose of property, real and personal.

Morrison J observed:

> a non-trading corporation has the right to acquire property which may be the source of income or revenue. And the transaction of the business incidental thereto creates a reputation, rights and interests, in no essential respects different from that of an individual or trading corporation.

[52] The *Chinese Empire* case may be distinguished from the instant case on its particular facts. In contrast, the plaintiffs in the instant case are not

empowered to transact business or to acquire and deal with property to acquire revenue or income. Its powers are primarily for the maintenance and enjoyment of common property by parcel proprietors.

[53] Thus in common law, the plaintiffs have not met the criteria to enable them to maintain an action in defamation.

CONCLUSION

[54] It is clear from the established authorities that the first plaintiff, as well as the second to sixth plaintiffs being creatures of statute can only exercise powers and competence expressly provided in the enabling statute or by necessary implication arising from express provisions in the Act itself. To extend these powers and competence by reference to general provisions in the Act, to confer locus to bring an action in defamation, is to our mind to go further than what was intended by the Act and is unsupported by authorities.

[55] Neither can there be recourse to the common law for the reasons discussed above.

[56] We therefore dismiss both appeals with costs, and affirm the decision of the learned JC to strike out the plaintiffs' writ and statement of claim dated 29 April 2014, pursuant to O 18 r 19(1)(a) or (b) or (c) or (d) of the Rules of Court 2012, as well as the plaintiffs' application for amendment of the same.

Appeals dismissed with costs.

Reported by Afiq Mohamad